

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

**MARCUS WILLIAMS,**

**Plaintiff,**

**V.**

**GEOVERA SPECIALTY INSURANCE  
COMPANY,**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. \_\_\_\_\_**

**JURY DEMAND**

**DEFENDANT’S NOTICE OF REMOVAL**

Defendant GeoVera Specialty Insurance Company files this Notice of Removal:

**I.  
FACTUAL AND PROCEDURAL BACKGROUND**

1. On May 26, 2016, Plaintiff Marcus Williams filed this lawsuit in Cameron County, Texas, naming GeoVera Specialty Insurance Company (“GeoVera”) as defendant.
2. Plaintiff served GeoVera with a copy of the Petition on or about June 2, 2016.
3. GeoVera files this notice of removal within 30 days of receiving Plaintiff’s initial pleading. *See* 28 U.S.C. § 1446(b). In addition, this Notice of Removal is being filed within one year of the commencement of this action. *See id.*
4. As required by Local Rule 81 and 28 U.S.C. § 1446(a), simultaneously with the filing of this notice of removal, attached hereto as Exhibit “A” is an Index of Matters Being Filed. A copy of the Case Summary/Docket Sheet is attached as Exhibit “B.” A certified copy of Plaintiff’s Original Petition is attached as Exhibit “C,” and a certified copy of the Civil Case Information Sheet is attached as Exhibit “D.” A certified copy of Citation issued to GeoVera Specialty Insurance Company is attached as Exhibit “E,” and Defendant GeoVera Specialty

Insurance Company's Original Answer is attached as Exhibit "F." The List of Counsel and Parties to the Case is attached as Exhibit "G." A copy of this Notice is also being filed with the state court and served upon the Plaintiff.

5. Venue is proper in this Court under 28 U.S.C. § 1441(a) because this district and division embrace Cameron County, Texas, the place where the removed action has been pending.

## **II.** **BASIS FOR REMOVAL**

6. Removal is proper based on diversity of citizenship under 28 U.S.C. §§ 1332(a), 1441(a) and 1446.

### **A. The Parties Are Of Diverse Citizenship.**

7. Plaintiff is, and was at the time the lawsuit was filed, a resident and citizen of Texas.

8. GeoVera Specialty Insurance Company is, and was at the time the lawsuit was filed a citizen of California. GeoVera Specialty Insurance Company is an insurance company incorporated under the laws of the State of California, with its principal place of business in Fairfield, California.

9. Because Plaintiff is a citizen of Texas and Defendant GeoVera is a citizen of California, complete diversity of citizenship exists among the parties.

### **B. The Amount in Controversy Exceeds \$75,000.00.**

10. This is a civil action in which the amount in controversy exceeds \$75,000.00. Plaintiff's Petition expressly alleged that "Plaintiff seeks monetary relief of less than \$100,000.00[.]"<sup>1</sup> Thus, the express allegations in the Petition exceed the amount in controversy threshold of \$75,000.00.

---

<sup>1</sup> Exhibit C, pg. 3 § IV.

11. Additionally, in determining the amount in controversy, the Court may consider policy limits, penalties, statutory damages, and punitive damages. *St. Paul Reinsurance Co. Ltd. v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998); *see Ray v. State Farm Lloyds*, 1999 WL 151667, at \*2-3 (N.D. Tex. 1999) (finding sufficient amount in controversy in plaintiff's case against the insurer for breach of contract, bad faith, violations of the Texas Insurance Code and Texas Deceptive Trade Practices Act and mental anguish); *Fairmont Travel, Inc. v. George S. May Int'l Co.*, 75 F.Supp.2d 666, 668 (S.D. Tex 1999) (considering DTPA claims and the potential recovery of punitive damages as part of the amount in controversy). "Attorney's fees must be included in the calculation of the amount in controversy if the plaintiff would be able to recover them under a state statute ...." *Gilman v. Arthur J. Gallagher & Co.*, No. H-09-2366, 2009 WL 5195956 at \*10 (S.D. Tex. Dec. 21, 2009); *Consumer Credit Counseling Serv. of Greater San Antonio v. OneBeacon Lloyd's of Texas*, No. SA-06-CA-307, 2006 WL 2728906 at \*3 (W.D. Tex. Aug. 23, 2006) (considering attorney's fees in its analysis of the amount in controversy); *Missouri State Life Ins. Co. v. Jones*, 290 U.S. 199, 200-02 (1933) (finding attorney's fees should be considered as part of the amount in controversy for purposes of federal diversity). Pre-suit demand letters are also evidence of the jurisdictional amount in controversy. *Molina v. Wal-Mart Stores Texas, L.P.*, 535 F.Supp.2d 805, 808 (W.D. Tex. 2008).

12. Here, Plaintiff alleges that GeoVera is liable under a residential insurance policy because Plaintiff made a claim under that policy and GeoVera wrongfully adjusted and denied Plaintiff's claim. Specifically, but without limitation, Plaintiff alleges that Defendant GeoVera breached the insurance contract number GH80011445, effective October 28, 2013 to October 28, 2014, with a Dwelling Limit of \$129,000.00, Other Structures Limit of \$12,900.00, Personal Property Limit of \$64,500.00, and Loss of Use Limit of \$25,800.00, for the Loss Location at

9606 Kingbird Dr., Harlingen, TX 78552, the property giving rise to the present dispute. (Ex. H, Nelson Declaration.).

**Conclusion and Prayer**

Accordingly, all requirements are met for removal under 28 U.S.C. §§ 1332 and 1441. Accordingly, GeoVera hereby removes this case to this Court for trial and determination.

Respectfully submitted,

/s/ Rhonda J. Thompson

**RHONDA J. THOMPSON, ATTORNEY-IN-CHARGE**  
[rthompson@thompsoncoe.com](mailto:rthompson@thompsoncoe.com)

State Bar No. 24029862

Southern District No.: 17055

**ADRIENNE H. NELSON**

[anelson@thompsoncoe.com](mailto:anelson@thompsoncoe.com)

State Bar No. 24069867

Southern District No.: 2276091

THOMPSON, COE, COUSINS & IRONS, LLP.

700 N. Pearl Street, 25<sup>th</sup> Floor

Dallas, Texas 75201

(214) 871-8200 - Telephone

(214) 871-8209 – Fax

**COUNSEL FOR DEFENDANT GEOVERA  
SPECIALTY INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 30th day of June, 2016, the foregoing pleading was served on the following counsel of record in accordance with the Federal Rules of Civil Procedure:

**Via Electronic Filing and Email:**

R. Kent Livesay  
Law Offices of R. Kent Livesay, P.C.  
2510 S. Veterans Blvd.  
Edinburg, TX 78539  
Telephone: 956.686.5776  
Fax: 956.686.0050  
Email: [angel@livesaylawfirm.com](mailto:angel@livesaylawfirm.com)  
*Counsel for Plaintiff*

/s/ Adrienne H. Nelson  
Adrienne H. Nelson